

Pursuant to Rules 8001(a) and 8002(a) of the Federal Rules of Bankruptcy Procedure and 28 U.S.C. § 158(a)(1), Community Unit School District 300, an Illinois school district existing and operating pursuant to the Illinois School Code, 105 Illinois Compiled Statutes 5/1-1, et seq., by and through its attorneys, Robbins, Schwartz, Nicholas, Lifton & Taylor, Ltd., Gensburg

Calandriello & Kanter, P.C., and Archer & Greiner, P.C., hereby appeals to the United States District Court for the Southern District of New York from the *Order Denying the Motion of Community Unit School District 300 to Deem Economic Development Agreement Rejected Pursuant to the Debtors' Confirmed Chapter 11 Plan, or, in the Alternative, to Compel the Debtors to Reject the Agreement* [ECF No. 9116] (the “**Order**”), which was entered on November 23, 2020, and is attached hereto as Exhibit A. The other parties to the Order, and the names, addresses, and telephone numbers of their respective attorneys are:

Party	Attorneys
Sears Holding Corporation, et al. (Debtors)	Ray C. Schrock, P.C. David J. Lender Paul R. Genender Jared R. Friedmann Sunny Singh Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, New York 10153 Telephone: (212) 310-8000
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Transform Holdco LLC, et al.	Richard A. Chesley Rachel Ehrlich Albanese R. Craig Martin DLA Piper LLP 1251 Avenue of the Americas New York, New York 10020 Telephone: (212) 335-4500
Official Committee of Unsecured Creditors	Ira S. Dizengoff Philip C. Dublin Sara L. Brauner Akin Gump Strauss Hauer & Feld LLP One Bryant Park New York, New York 10036 Telephone: (212) 872-1000

Dated: New York, New York
December 4, 2020

ARCHER & GREINER, P.C.

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*Attorneys for Community Unit School District 300,
Appellant*

Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
	:
In re	:
	:
SEARS HOLDINGS CORPORATION, <i>et al.</i> ,	:
	:
Debtors. ¹	:
	:
-----X	

Chapter 11
Case No. 18-23538 (RDD)
(Jointly Administered)

**ORDER DENYING THE MOTION OF COMMUNITY UNIT SCHOOL DISTRICT 300
TO DEEM ECONOMIC DEVELOPMENT AGREEMENT REJECTED PURSUANT TO
THE DEBTORS' CONFIRMED CHAPTER 11 PLAN, OR, IN THE ALTERNATIVE,
TO COMPEL THE DEBTORS TO REJECT THE AGREEMENT**

Upon the motion, dated November 2, 2020 (ECF No. 9061) and exhibits thereto (ECF No. 9062) (together, the “**Motion**”)² of Community Unit School District 300 (the “**School District**”) in the above-captioned chapter 11 cases of Sears Holdings Corporation and certain of its affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”) pursuant to

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); SR – Rover de Puerto Rico, LLC (f/k/a Sears, Roebuck de Puerto Rico, Inc.) (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Rover Brands Business Unit, LLC (f/k/a Sears Brands Business Unit Corporation) (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors’ corporate headquarters is c/o M-III Partners, LP, 1700 Broadway, 19th Floor, New York, NY 10019.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Sections 105(a) and 365 of chapter 11 of title 11 of the United States Code for entry of an order deeming the Economic Development Agreement (the “**EDA Agreement**”) between Sears, Roebuck & Co. and the Village of Hoffman Estates, Illinois (the “**Village**”) rejected pursuant to the Debtors’ confirmed *Modified Second Amended Joint Chapter 11 Plan* (ECF No. 5370), or, in the alternative, compelling the Debtors to reject the EDA Agreement, as set forth more fully in the Motion and the School District’s Supplement to the Motion, dated November 6, 2020 (ECF No. 9071); and upon consideration of the Village’s objection to the Motion, dated November 11, 2020 (ECF No. 9079) (the “**Village Objection**”), the Debtors’ objection to the Motion, dated November 11, 2020 (ECF No. 9083) (the “**Debtors’ Objection**”), the declaration of Jared R. Friedmann in support of the Debtors’ Objection, dated November 11, 2020 (ECF No. 9084), and the School District’s reply to the Debtors’ Objection and the Village Objection, dated November 15, 2020 (ECF No. 9095); and the Court having jurisdiction to decide the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion and the opportunity for a hearing thereon having been provided in accordance with the Amended Case Management Order; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having held a hearing to consider the relief requested in the Motion on November 20, 2020 (the “**Hearing**”); and upon the record of the Hearing and all of the proceedings had before the Court; and after due deliberation and for the reasons stated by the Court in its bench ruling at the Hearing, the Court having determined that the Motion should be denied as being contrary to the

plain terms of the applicable provisions of the Bankruptcy Code and the Debtors' Plan, as well as in the alternative, because the School District has not established sufficient cause for the requested relief; now, therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is denied.
2. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: November 23, 2020
White Plains, New York

/s/Robert D. Drain
THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
Community Unit School District 300

DEFENDANTS
Sears Holding Corporation, et al.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Archer & Greiner, P.C.
1211 Avenue of the Americas
New York, New York 10036

ATTORNEYS (IF KNOWN)
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767 Fifth Avenue
New York, New York 10153

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Appeal from In re Sears Holding Corporation, Case No. 18-23538 (RDD), Docket No. 9116.

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE? No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS

ACTIONS UNDER STATUTES

CONTRACT

- [] 110 INSURANCE
[] 120 MARINE
[] 130 MILLER ACT
[] 140 NEGOTIABLE INSTRUMENT
[] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
[] 151 MEDICARE ACT
[] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
[] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
[] 160 STOCKHOLDERS SUITS
[] 190 OTHER CONTRACT
[] 195 CONTRACT PRODUCT LIABILITY
[] 196 FRANCHISE

PERSONAL INJURY

- [] 310 AIRPLANE
[] 315 AIRPLANE PRODUCT LIABILITY
[] 320 ASSAULT, LIBEL & SLANDER
[] 330 FEDERAL EMPLOYERS' LIABILITY
[] 340 MARINE
[] 345 MARINE PRODUCT LIABILITY
[] 350 MOTOR VEHICLE
[] 355 MOTOR VEHICLE PRODUCT LIABILITY
[] 360 OTHER PERSONAL INJURY
[] 362 PERSONAL INJURY - MED MALPRACTICE

ACTIONS UNDER STATUTES

CIVIL RIGHTS

- [] 440 OTHER CIVIL RIGHTS (Non-Prisoner)
[] 441 VOTING
[] 442 EMPLOYMENT
[] 443 HOUSING/ ACCOMMODATIONS
[] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
[] 446 AMERICANS WITH DISABILITIES - OTHER
[] 448 EDUCATION

REAL PROPERTY

- [] 210 LAND CONDEMNATION
[] 220 FORECLOSURE
[] 230 RENT LEASE & EJECTMENT
[] 240 TORTS TO LAND
[] 245 TORT PRODUCT LIABILITY
[] 290 ALL OTHER REAL PROPERTY

PERSONAL INJURY

- [] 367 HEALTHCARE/ PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY
[] 365 PERSONAL INJURY PRODUCT LIABILITY
[] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY

- [] 370 OTHER FRAUD
[] 371 TRUTH IN LENDING
[] 380 OTHER PERSONAL PROPERTY DAMAGE
[] 385 PROPERTY DAMAGE PRODUCT LIABILITY

PRISONER PETITIONS

- [] 463 ALIEN DETAINEE
[] 510 MOTIONS TO VACATE SENTENCE
[] 530 HABEAS CORPUS
[] 535 DEATH PENALTY
[] 540 MANDAMUS & OTHER

PRISONER CIVIL RIGHTS

- [] 550 CIVIL RIGHTS
[] 555 PRISON CONDITION
[] 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT

FORFEITURE/PENALTY

- [] 625 DRUG RELATED SEIZURE OF PROPERTY
21 USC 881
[] 690 OTHER

PROPERTY RIGHTS

- [] 820 COPYRIGHTS
[] 830 PATENT
[] 835 PATENT-ABBREVIATED NEW DRUG APPLICATION
[] 840 TRADEMARK

LABOR

- [] 710 FAIR LABOR STANDARDS ACT
[] 720 LABOR/MGMT RELATIONS
[] 740 RAILWAY LABOR ACT
[] 751 FAMILY MEDICAL LEAVE ACT (FMLA)
[] 790 OTHER LABOR LITIGATION
[] 791 EMPL RET INC SECURITY ACT (ERISA)

IMMIGRATION

- [] 462 NATURALIZATION APPLICATION
[] 465 OTHER IMMIGRATION ACTIONS

BANKRUPTCY

- [x] 422 APPEAL
28 USC 158
[] 423 WITHDRAWAL
28 USC 157

SOCIAL SECURITY

- [] 861 HIA (1395ff)
[] 862 BLACK LUNG (923)
[] 863 DIWC/DIWW (405(g))
[] 864 SSID TITLE XVI
[] 865 RSI (405(g))

FEDERAL TAX SUITS

- [] 870 TAXES (U.S. Plaintiff or Defendant)
[] 871 IRS-THIRD PARTY
26 USC 7609

OTHER STATUTES

- [] 375 FALSE CLAIMS
[] 376 QUI TAM
[] 400 STATE REAPPORTIONMENT
[] 410 ANTITRUST
[] 430 BANKS & BANKING
[] 450 COMMERCE
[] 460 DEPORTATION
[] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
[] 480 CONSUMER CREDIT
[] 485 TELEPHONE CONSUMER PROTECTION ACT
[] 490 CABLE/SATELLITE TV
[] 850 SECURITIES/ COMMODITIES/ EXCHANGE
[] 890 OTHER STATUTORY ACTIONS
[] 891 AGRICULTURAL ACTS
[] 893 ENVIRONMENTAL MATTERS
[] 895 FREEDOM OF INFORMATION ACT
[] 896 ARBITRATION
[] 899 ADMINISTRATIVE PROCEDURE ACT/REVIEW OR APPEAL OF AGENCY DECISION
[] 950 CONSTITUTIONALITY OF STATE STATUTES

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y. AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13? IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation (Transferred)
 ☐ 7 Appeal to District Judge from Magistrate Judge
 ☐ 8 Multidistrict Litigation (Direct File)
- ☐ a. all parties represented
☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION**IF DIVERSITY, INDICATE CITIZENSHIP BELOW.**

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION
 ☐ 4 DIVERSITY
- (U.S. NOT A PARTY)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[]	[]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[]	[]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[]	[]
CITIZEN OF ANOTHER STATE	[]	[]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[]	[]	FOREIGN NATION	[]	[]

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☒ WHITE PLAINS ☐ MANHATTAN

s/ Allen G. Kadish

DATE 12/4/2020 SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

[x] YES (DATE ADMITTED Mo. January Yr. 1989)

Attorney Bar Code # 2235315

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)